

667 Porterville Developmental Center Secure Treatment Program Population Capacity

SECTION 1. Section 709 of the Welfare & Institutions Code is amended to read:

709. (a) During the pendency of any juvenile proceeding, the minor's counsel or the court may express a doubt as to the minor's competency. A minor is incompetent to proceed if he or she lacks sufficient present ability to consult with counsel and assist in preparing his or her defense with a reasonable degree of rational understanding, or lacks a rational as well as factual understanding, of the nature of the charges or proceedings against him or her. If the court finds substantial evidence raises a doubt as to the minor's competency, the proceedings shall be suspended.

(b) Upon suspension of proceedings, the court shall order that the question of the minor's competence be determined at a hearing. The court shall appoint an expert to evaluate whether the minor suffers from a mental disorder, ~~developmental disability~~, developmental immaturity, or other condition and, if so, whether the condition or conditions impair the minor's competency. The expert shall have expertise in child and adolescent development, and training in the forensic evaluation of juveniles, and shall be familiar with competency standards and accepted criteria used in evaluating competence. If the minor is suspected of being developmentally disabled, the court shall appoint the director of a regional center for developmentally disabled individuals described in Chapter 5 (commencing with Section 4620) of Division 4.5, or his or her designee, to evaluate the minor. The director of the regional center or his or her designee shall determine whether the minor has a developmental disability as defined in subdivision (a) of Section 4512, and shall provide the court with a written report informing the court of its determination. The Judicial Council shall develop and adopt rules for the implementation of these requirements.

(c) If the minor is found to be incompetent by a preponderance of the evidence, all proceedings shall remain suspended for a period of time that is no longer than reasonably necessary to determine whether there is a substantial probability that the minor will attain competency in the foreseeable future, or the court no longer retains jurisdiction. During this time, the court may: make

(1) Make orders that it deems appropriate for services that may assist the minor in attaining competency, consistent with the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)). Further, the court may rule

(2) Rule on motions that do not require the participation of the minor in the preparation of the motions. These motions include, but are not limited to:

(1)

(A) Motions to dismiss.

(2)

(B) Motions by the defense regarding a change in the placement of the minor.

(3)

(C) Detention hearings.

(4)

(D) Demurrers.

(d) If the minor is found to be competent, the court may proceed commensurate with the court's jurisdiction.

(e) This section applies to a minor who is alleged to come within the jurisdiction of the court pursuant to Section 601 or 602.

SEC. 2. Section 712 of the Welfare & Institutions Code is amended to read:

712. (a) The evaluation ordered by the court under Section 711 shall be made, in accordance with the provisions of Section 741 and Division 4.5 (commencing with Section 4500), by either of the following, as applicable: an

(1) For minors suspected to be developmentally disabled, by the director of a regional center or his or her designee, pursuant to subdivision (b) of Section 709;

(2) For all other minors, by an appropriate and licensed mental health professional who meets one or more of the following criteria:

~~(1)~~

(A) The person is licensed to practice medicine in the State of California and is trained and actively engaged in the practice of psychiatry.

~~(2)~~

(B) The person is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(b) The evaluator selected by the court shall personally examine the minor, conduct appropriate psychological or mental health screening, assessment, or testing, according to a uniform protocol developed by the county mental health department and prepare and submit to the court a written report indicating his or her findings and recommendations to guide the court in determining whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3, ~~or has a developmental disability, as defined in Section 4512.~~ If the minor is detained, the examination shall occur within three court days of the court's order of referral for evaluation, and the evaluator's report shall be submitted to the court not later than five court days after the evaluator has personally examined the minor, unless the submission date is extended by the court for good cause shown.

(c) Based on the ~~evaluator's~~ written report by the evaluator or the regional center, the court shall determine whether the minor has a serious mental disorder or is seriously emotionally disturbed, as described in Section 5600.3, or has a developmental disability, as defined in Section 4512. If the court determines that the minor has a serious mental disorder or, is seriously emotionally disturbed, or has a developmental disability, the case shall proceed as described in Section 713. If the court determines that the minor does not have a serious mental disorder, is not seriously emotionally disturbed, or does not have a developmental disability, the matter shall proceed without the application of Section 713 and in accordance with all other applicable provisions of law.

(d) This section shall not be construed to interfere with the legal authority of the juvenile court or of any other public or private agency or individual to refer a minor for mental health evaluation or treatment as provided in Section 370, 635.1, 704, 741, 5150, 5694.7, 5699.2, 5867.5, or 6551 of this code, or in Section 4011.6 of the Penal Code.

SEC. 3. Section 7502.5 of the Welfare & Institutions Code is amended to read:

7502.5. (a) The total number of developmental center residents in the secure treatment facility at Porterville Developmental Center, including those residents receiving services in the Porterville Developmental Center transition treatment program, shall not exceed ~~297~~ 230.

(b) As of the effective date of this subdivision, the Department of Developmental Services shall not admit any persons into the secure treatment facility at Porterville Developmental Center until the population of the secure treatment facility is less than 230 persons.

(c) To maximize federal financial participation, the Department of Developmental Services shall not admit any more than 104 people who are ineligible to participate in programs certified for federal financial participation into the secure treatment facility at Porterville Developmental Center.

SEC. 4._ This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes necessary for implementation of the Budget Act of 2011, it is necessary that this act take effect immediately.